

ACT 2013 - 386

1 HB544
2 151231-3
3 By Representative Patterson
4 RFD: Boards, Agencies and Commissions
5 First Read: 04-APR-13



1
2 ENROLLED, An Act,

3 To amend Sections 34-26-21, 34-26-22, 34-26-41,
4 34-26-42, 34-26-43, 34-26-43.1, 34-26-44, 34-26-46, and
5 34-26-47, Code of Alabama 1975, relating to the practice of
6 psychology; to make numerous revisions to the statute
7 regulating the practice of psychology; to provide for the
8 membership of the Board of Examiners in Psychology; to provide
9 further for renewal and licensing fees of psychologists and
10 psychological technicians; to provide further for continuing
11 education; to provide further for licensing mobility and
12 temporary and emergency disaster licensing; to increase the
13 fines for unauthorized practice of psychology; to provide
14 civil remedies for enjoining violations of the licensing act;
15 to provide for background check fees; to provide further for
16 complaints of licensees; to provide further for hearings of
17 alleged violations; and to repeal Section 34-26-45, Code of
18 Alabama 1975, providing for the waiver of examination for
19 certain persons licensed in other states.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 34-26-21, 34-26-22, 34-26-41,
22 34-26-42, 34-26-43, 34-26-43.1, 34-26-44, 34-26-46, and
23 34-26-47 of the Code of Alabama 1975, are amended to read as
24 follows:

25 "§34-26-21.

26 "(a) (1) There is created a State Board of Examiners
27 in Psychology to consist of seven persons who are residents of

1 this state, who shall be appointed by the Governor under
2 conditions set forth in this section. At least ~~two members~~ one
3 member shall be chosen from and shall be ~~members~~ a member of
4 the faculty, with the rank of assistant professor or above, of
5 the accredited colleges and universities of the state, shall
6 be licensed psychologists under this chapter, and shall be
7 primarily engaged in teaching, research, or administration of
8 psychology. ~~Three~~ Five members shall be licensed ~~practicing~~
9 psychologists under this chapter. One member shall be licensed
10 as a psychological technician ~~or qualified for licensure as a~~
11 ~~psychological technician~~ under this chapter. One member shall
12 be a member of the general public.

13 "(2) The board shall perform those duties and
14 exercise those powers prescribed in this chapter. No member of
15 the board shall be liable to civil action for any act
16 performed in good faith in the performance of his or her duty
17 pursuant to this chapter. ~~Original appointments to the board~~
18 ~~shall be for terms as follows: One practicing psychologist for~~
19 ~~a term of one year, one academic psychologist for a term of~~
20 ~~two years, one practicing psychologist for a term of three~~
21 ~~years, one academic psychologist for a term of four years, and~~
22 ~~one practicing psychologist for a term of five years.~~
23 Vacancies shall be filled for any unexpired term, and members
24 shall serve until their successors are appointed and have
25 qualified.

1 "(3) Board members shall not serve more than two
2 consecutive terms of office. ~~Within 30 days after October 1,~~
3 ~~1963, the Executive Committee of the Alabama Psychological~~
4 ~~Association, or of its successor organization, shall submit to~~
5 ~~the Governor a list of qualified candidates for the original~~
6 ~~five positions on the board. The list shall contain names of~~
7 ~~at least two qualified academic psychologists and two~~
8 ~~qualified practicing psychologists, from which the Governor~~
9 ~~shall select the board within 60 days. Not later than October~~
10 ~~1 of each year the executive committee council of the~~
11 ~~association~~ Alabama Psychological Association, or of its
12 successor organization, shall submit to the Governor the names
13 of two qualified candidates for the position of the board to
14 be vacated by reason of expiration of term of office. Efforts
15 shall be made to have nominations, with due consideration,
16 reflect the geographic, gender, racial, and ethnic diversity
17 of the state without regard to political affiliation. From the
18 two candidates the Governor shall appoint one member not later
19 than January 1 to serve on the board for a term of five years.
20 With the exception of the ~~two members~~ member appointed from
21 the general public ~~pursuant to subsection (b)~~, other vacancies
22 occurring in the board shall be filled for the unexpired term
23 by appointment of the Governor from two qualified candidates
24 for each vacancy submitted within 30 days after the vacancy
25 occurs by the executive ~~committee~~ council of the association,
26 or by its successor organization. Those appointments shall be
27 made by the Governor within 30 days after the candidates'

1 names have been submitted. If the association, or its
2 successor organization, fails to furnish the Governor with the
3 list of persons eligible for appointment to the board, the
4 Governor shall appoint any qualified members of the profession
5 of psychology to the vacant position on the board.

6 ~~"(b)(1) Within 30 days following October 1, 1988,~~
7 ~~the~~ The Governor shall appoint, ~~two new members to the board~~
8 ~~for a five-year terms term~~ term of office. ~~Each of the two new~~
9 ~~members shall be members, a member~~ a member of the general public, ~~and~~
10 ~~who is a resident of Alabama residents who are~~ not licensed by
11 the board, and whose ~~spouses spouse~~, if married, ~~are is~~ not
12 licensed by the board. ~~One of the two new public members, and~~
13 ~~his or her successors, shall be Black.~~ Vacancies for unexpired
14 terms of the general public member shall be filled by the
15 Governor. Successor public members shall be appointed by the
16 Governor. Efforts shall be made to have nominations, with due
17 consideration, reflect the geographic, gender, racial, and
18 ethnic diversity of the state without regard to political
19 affiliation.

20 ~~"(2) Immediately upon the expiration or vacancy of~~
21 ~~the public position not held by a Black individual that public~~
22 ~~position on the board shall be abolished. Thereafter, only one~~
23 ~~public position shall remain on the board. That public~~
24 ~~position shall continue to be filled by a member of the~~
25 ~~general public who is Black.~~

1 "~~(c) (1) On October 1, 1997, there is created a~~
2 ~~psychological technician position on the board. The Governor~~
3 ~~shall appoint a candidate to the psychological technician~~
4 ~~position on the board. The person initially appointed to fill~~
5 ~~the psychological technician position on the board shall have~~
6 ~~a master's degree in psychology and shall not be required to~~
7 ~~be a licensed psychological technician. Any subsequent~~
8 ~~appointment to the psychological technician position on the~~
9 ~~board shall be a licensed psychological technician.~~

10 "~~(2)(c)~~ To fill the psychological technician
11 position on the board, the Executive Council of the Alabama
12 Psychological Association, or its successor organization,
13 ~~shall submit a list of four nominees to the executive~~
14 ~~committee of the association, or its successor organization,~~
15 ~~who shall select two names from the list to be submitted to~~
16 ~~the Governor by October 1 prior to the expiration of the term.~~
17 On or before the immediately following January 1, the Governor
18 shall appoint one of the two names submitted to serve in the
19 psychological technician position on the board for a term of
20 five years.

21 "(d) Any board members may be removed by the
22 Governor after notice and hearing for incompetence, neglect of
23 duty, malfeasance in office, or moral turpitude.

24 "(e) Immediately before entering public duties of
25 the office, the members of the board shall take the
26 constitutional oath of office and shall file the oath in the
27 Office of the Governor, who upon receiving the oath shall

1 issue to each member a certificate of appointment. The board
2 shall have available for the Governor or his or her
3 representative detailed reports on proceedings and shall make
4 annual reports in the form required by the Governor.

5 "(f) The board shall elect annually a chair and
6 vice-chair. Each member shall receive the same per diem and
7 travel allowance paid to state employees for each day's
8 attendance at an official meeting of the board. The board
9 shall hold at least one regular meeting each year. Additional
10 meetings may be held at the discretion of the chair or at the
11 written request of any two members of the board. The board
12 shall adopt a seal which shall be affixed to all ~~certificates~~
13 licenses issued by the board. The board shall from time to
14 time adopt rules and regulations necessary for the performance
15 of its duties. Four members of the board shall constitute a
16 quorum. The board may hire any assistants necessary to carry
17 on its activities within the limit of funds available to the
18 board. The board may accept grants from foundations,
19 individuals, and institutions to carry on its functions.

20 "\$34-26-22.

21 "(a) The Board of Examiners in Psychology shall have
22 authority to administer oaths, to summon witnesses and to take
23 testimony in all matters relating to its duties. The board
24 shall be the sole agency in this state empowered to certify
25 concerning competence in the practice of psychology and the

1 sole board empowered to recommend licensure for the practice
2 of psychology. The board shall have the power to recognize
3 areas of specialization for practice and supervision, and to
4 ensure through rules and regulations and enforcement that
5 licensees limit their practice to demonstrated areas of
6 competence as documented by relevant professional education,
7 training, and experience. No individual shall be issued a
8 license for the practice of psychology who has not been
9 previously certified at the appropriate level of practice by
10 the board. The board shall certify as competent to practice
11 psychology or as competent to practice as a psychological
12 technician all persons who shall present satisfactory evidence
13 of attainments and qualifications under provisions of this
14 chapter and the rules and regulations of the board. The
15 certification shall be signed by the chair of the board under
16 the adopted seal of the board. The chair shall, under the
17 direction of the board, aid the district attorneys in the
18 enforcement of this chapter and the prosecutions of all
19 persons charged with the violation of its provisions.

20 Psychologists and psychological technicians licensed by the
21 board shall be required to submit annually to the board a
22 completed registration fee ~~of up to one hundred fifty dollars~~
23 ~~(\$150) for psychologists and of up to one hundred dollars~~
24 ~~(\$100) for psychological technicians as set, not exceeding~~
25 five hundred dollars (\$500), as determined by the board, ~~after~~
26 ~~the first year.~~ The list of registered licensed psychologists
27 and registered licensed psychological technicians shall be

1 made available to interested individuals or organizations at a
2 nominal charge.

3 "(b) A psychology license issued by the board shall
4 expire on October 15, and shall be renewed annually upon the
5 satisfaction of continuing education requirements and payment
6 of the renewal fee. Failure to comply with all requirements
7 for renewal within the time period prescribed by the board
8 shall result in a lapsed license. Failure to satisfy all
9 requirements for reactivation of an inactive license shall
10 result in a lapsed license. A psychologist may have his or her
11 lapsed license reinstated upon the payment of all accrued
12 annual fees and late penalties and satisfaction of all
13 requirements established by rule of the board. If a
14 psychologist is alleged to have violated any of the
15 prohibitions on professional conduct provided in this chapter,
16 the board, upon a hearing and proof of the violation, may deny
17 reinstatement of the license or prohibit the psychologist from
18 applying for reinstatement.

19 ~~"(b) By the year 1990 the~~ (c) The board shall
20 implement requirements through its rules and regulations that
21 licensees shall engage in annual continuing education
22 activities other than individual study to renew the license to
23 practice. Continuing education activities shall be relevant to
24 the practice of psychology or applicable within the practice
25 of psychology. The board may charge a reasonable fee to

1 register and keep records of licensees' continuing education
2 credits. ~~Failure to engage in continuing education or failure~~
3 ~~to pay fees for registration of continuing education credits~~
4 ~~will provide grounds for suspension of licensure.~~

5 "(c)(d) The board may promulgate and adopt rules and
6 regulations as are necessary to implement the requirements of
7 this chapter. The rules and regulations shall be adopted
8 pursuant to the state administrative procedure statutes.

9 "§34-26-41.

10 "(a) (1) Any person wishing to obtain the right to
11 practice as a psychologist or psychological technician in this
12 state, who has not heretofore been licensed to do so, shall,
13 before it shall be lawful for him or her to practice as a
14 psychologist or psychological technician in this state, make
15 application to the Board of Examiners in Psychology through
16 the chair upon such form and in such manner as prescribed by
17 the board.

18 "(2) Unless a person has first obtained a valid
19 license as aforesaid, it shall be unlawful and a violation of
20 this chapter for him or her to practice.

21 "(b) A candidate for licensure as a psychologist
22 shall furnish the board with satisfactory evidence of all of
23 the following:

24 "(1) He or she is of good moral character.

25 "(2) He or she is at least 19 years of age.

26 "(3) He or she has received a doctorate degree from
27 a department of, or school of, psychology, from an educational

1 institution accredited and recognized by national and regional
2 accrediting agencies as maintaining satisfactory standards.

3 "(4) He or she is competent in psychology as shown
4 by passing such examinations, written or oral, or both, as the
5 board will prescribe, unless exempted pursuant to subsection
6 ~~(d)~~ (e).

7 "(5) He or she is not engaged in unethical practice
8 as defined in the Code of Ethics of the American Psychological
9 Association.

10 "(6) He or she has not within the preceding six
11 months failed an examination given by the board.

12 ~~"(7) He or she is a citizen of the United States or,~~
13 ~~if not a citizen of the United States, a person who is legally~~
14 ~~present in the United States with appropriate documentation~~
15 ~~from the federal government.~~

16 "(c) The board may issue a license to any person who
17 is a licensed psychologist of another state, and who applies
18 to the board, provided the licensee of another state shall
19 furnish the board with satisfactory evidence of all of the
20 following:

21 "(1) He or she is of good moral character, and holds
22 his or her license in good standing from another state.

23 "(2) He or she is at least 19 years of age.

24 "(3) He or she has received a doctorate degree in
25 psychology from an educational institution accredited and

1 recognized by national and regional accrediting agencies as
2 maintaining satisfactory standards or, in lieu of a doctorate
3 degree in psychology, a doctorate degree in a closely allied
4 field, if the training received therefor is substantially
5 similar to that required of doctorates obtained from
6 departments of psychology.

7 "(4) He or she is competent in psychology as shown
8 by the passing of an examination, unless exempted pursuant to
9 subsection ~~(d)~~ (e), substantially equivalent to the
10 examinations prescribed in subsection (a), or by the passing
11 of a recognized national examination in psychology.

12 "(5) He or she is not engaged in unethical practice
13 as defined in the Code of Ethics of the American Psychological
14 Association.

15 "(6) He or she has practiced psychology in another
16 state at least four consecutive years prior to application.

17 "(7) That the other state under which he or she is
18 licensed gives similar recognition and reciprocal licensing to
19 licensed psychologists of this state.

20 ~~"(8) He or she is a citizen of the United States or,~~
21 ~~if not a citizen of the United States, a person who is legally~~
22 ~~present in the United States with appropriate documentation~~
23 ~~from the federal government.~~

24 "(d) (1) The board shall accept the Certificate of
25 Professional Qualification (CPQ) in psychology issued by the
26 Association of State and Provincial Psychology Boards (ASPPB),
27 or its successor organization, or board certification by the

1 American Board of Professional Psychology (ABPP) as evidence
2 that the applicant, who has not within the preceding six
3 months failed an examination given by the board, has met the
4 requirements for licensure.

5 "(2) The applicant shall submit all of the following
6 to the board:

7 "a. An application for licensure and the
8 corresponding licensure fee.

9 "b. Verification forms from the jurisdictions of
10 licensure, verifying that licensure is current and in good
11 standing.

12 "c. A verification form from the ASPPB or from the
13 ABPP.

14 "(3) All applicants under this subsection shall
15 successfully pass any local jurisdictional examinations. The
16 board may deny licensure to any applicant who has had
17 disciplinary action taken against him or her by any licensing
18 authority or professional organization or who has a record
19 that discloses any other matter that puts in question his or
20 her competency to practice.

21 "~~(d)~~(e) The board shall issue a license to any
22 applicant with a doctoral degree in psychology who is
23 otherwise qualified pursuant to subsections (a) and (b), who
24 is licensed in at least two states and who has passed a
25 recognized national exam.

1 "(f) An individual who possesses a valid license to
2 practice psychology independently at the doctoral level, by
3 any jurisdiction recognized by the Association of State and
4 Provincial Psychology Boards, may practice psychology in
5 Alabama for no more than 30 days each calendar year without
6 applying for a license to practice psychology in Alabama,
7 unless otherwise exempted pursuant to this chapter. This
8 authority to practice does not apply to a psychologist who has
9 been denied licensure in Alabama, is a legal resident of
10 Alabama, or intends to practice full-time or a major portion
11 of his or her time in Alabama.

12 "(g) An individual licensed to practice psychology
13 in another jurisdiction, who is providing services in response
14 to a declared disaster or state of emergency, may practice
15 psychology in this jurisdiction for no more than 60 days per
16 year, without applying for a license, upon proper notification
17 as required by board rule.

18 "(h) A licensee may request that the board designate
19 his or her license as inactive at any time before the date of
20 renewal. Granting inactive status to a licensee revokes all
21 privileges associated with licensure under this chapter until
22 reactivation is requested by the licensee. Procedures for
23 reactivating a license and granted by the board shall be
24 established by the rule of the board.

25 "(e)(i) A candidate for licensure as a psychological
26 technician shall furnish the board with satisfactory evidence
27 of all of the following:

"(1) He or she is of good moral character.

"(2) He or she is at least 19 years of age.

"(3) He or she has a master's degree in psychology from a regionally accredited institution of higher education, or has completed the equivalent of a master's degree from an American Psychological Association accredited doctoral program in psychology, as determined by the board. Educational requirements are provided in Section 34-26-65.

"(4) Is competent as a psychological technician, as shown by passing examinations, written or oral, or both, as prescribed by the board.

"(5) Is not engaged in unethical practice as defined in the most recent version of the Code of Ethics of the American Psychological Association.

"(6) Has not within the preceding six months failed an examination given by the board.

~~"(7) He or she is a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government.~~

"§34-26-42.

"(a) If any person holds himself or herself out to the public as being engaged in practice as a psychologist or psychological technician, such as clinical, counseling, school, or combined professional-scientific psychology, and

1 does not then possess in full force and virtue a valid license
2 to practice as a psychologist or psychological technician
3 under this chapter, he or she shall be deemed guilty of a
4 Class ~~E~~ B misdemeanor and, upon conviction, shall be fined not
5 less than ~~one hundred dollars (\$100)~~ five hundred dollars
6 (\$500) per occurrence nor more than ~~five hundred dollars~~
7 ~~(\$500)~~ five thousand dollars (\$5,000) per occurrence plus
8 court costs. Nothing in this chapter shall be construed to
9 limit the professional pursuits of teachers in recognized
10 public and private schools, clergymen, practitioners of
11 medicine, social workers, licensed professional counselors,
12 school psychometrists, school psychologists, school
13 counselors, and guidance counselors from full performance of
14 their professional duties. However, in such performance any
15 title shall be in accord with this chapter. Students of
16 psychology, psychological interns, or other persons preparing
17 for the profession of psychology may perform as a part of
18 their training the functions specified in this chapter, but
19 only under qualified supervision. Use of psychological
20 techniques by business and industrial organizations for
21 employment placement, evaluation, promotion, or job adjustment
22 of their own officers or employees or by employment agencies
23 for the evaluation of their own clients prior to
24 recommendations for employment is also specifically allowed.
25 However, no industrial or business firm or corporation may
26 sell or offer to the public or to other firms or corporations
27 for remuneration any psychological services as specified in

1 this chapter unless the services are performed or supervised
2 by individuals duly and appropriately licensed under this
3 chapter.

4 "(b) When the board has evidence that any person has
5 engaged in any act or practice constituting a violation of
6 this chapter, or any rule or order promulgated pursuant to
7 this chapter, the board may bring an action in the Circuit
8 Court of Montgomery County to enjoin the act or practice and
9 to enforce compliance with this chapter or any rule or order
10 promulgated pursuant to this chapter, regardless of whether
11 criminal proceedings have been or may be initiated. Upon a
12 proper showing, the court may order a permanent or temporary
13 injunction, restraining order, or a writ of mandamus.

14 "§34-26-43.

15 "There shall be paid to the board ~~chair~~ by each
16 applicant for a permanent license to practice psychology as a
17 psychologist or a psychological technician a fee not to exceed
18 ~~two hundred dollars (\$200), and by each applicant for a~~
19 ~~permanent license to practice as a psychological technician a~~
20 ~~fee not to exceed one hundred forty dollars (\$140) five~~
21 hundred dollars (\$500), as set by the board rule. No part of
22 any fee shall be returnable under any circumstance ~~other than~~
23 ~~failure of the board to hold examinations at the time~~
24 ~~originally announced, whereupon the entire fee may be returned~~
25 ~~at the option of the candidate.~~ All fees collected in this

1 manner plus renewal fees as outlined in Section 34-26-22 and
2 all gifts or grants shall be deposited in the State Treasury
3 to the credit of the board. Vouchers in payment of expenses
4 shall be drawn on the state Comptroller signed by the chair or
5 executive officer of the board.

6 "§34-26-43.1.

7 "The Board of Examiners in Psychology shall charge
8 each candidate for licensure as a psychologist or
9 psychological technician ~~an examination~~ a fee sufficient to
10 cover the entire actual costs of the examination of the
11 applicant as well as the cost of criminal and civil background
12 checks of the applicant.

13 "§34-26-44.

14 "Examination of applicants for a license to practice
15 as a psychologist or psychological technician shall be made by
16 the board at least once a year according to methods and in
17 such subject fields as may be deemed by the board to be the
18 most practical and expeditious to test the qualifications of
19 the applicant. The board shall require the examinations to be
20 written or oral, or both. ~~In any written examination the~~
21 ~~applicant shall be designated by a number instead of his or~~
22 ~~her name so that his or her identity shall not be disclosed to~~
23 ~~the members of the board until the examination papers have~~
24 ~~been graded. The board shall grade the written examinations~~
25 ~~returned by the candidates and shall keep them for at least~~
26 ~~one year. A~~ The board, by rule, shall provide circumstances
27 under which a candidate shall be held to have passed the

1 ~~examination upon the affirmative vote of three or more members~~
2 ~~of the board. Any unsuccessful candidate may, upon written~~
3 ~~request to the board, see his or her graded paper.~~

4 "\$34-26-46.

5 "(a) The board shall suspend, place on probation, or
6 require remediation, or any combination thereof, for any
7 psychologist or psychological technician for a specified time,
8 to be determined at the discretion of the board, or revoke any
9 license to practice as a psychologist or psychological
10 technician or take any other action specified in the rules and
11 regulations whenever the board finds by a preponderance of the
12 evidence that the psychologist or psychological technician has
13 engaged in any of the following acts or offenses:

14 "(1) Fraud or deception in applying for or procuring
15 a license to practice as a psychologist or psychological
16 technician; or in passing the examination provided for in this
17 chapter.

18 "(2) Practice as a psychologist or psychological
19 technician under a false or assumed name or the impersonation
20 of another practitioner of a like or different name.

21 "(3) Immoral, unprofessional, or dishonorable
22 conduct as defined in the rules and regulations promulgated by
23 the board.

1 "(4) Practicing as a psychologist or psychological
2 technician in such a manner as to endanger the welfare of
3 clients or patients.

4 "(5) Conviction of felony (a copy of the record of
5 conviction, certified to by the clerk of the court entering
6 the conviction shall be conclusive evidence).

7 "(6) Conviction of any crime or offense that
8 reflects the inability of the practitioner to practice as a
9 psychologist or psychological technician with due regard for
10 the health and safety of clients or patients.

11 "(7) Harassment, intimidation, or abuse, sexual or
12 otherwise, of a client or patient.

13 "(8) Engaging in sexual intercourse or other sexual
14 contact with a client or patient.

15 "(9) Use of repeated untruthful or deceptive or
16 improbable statements concerning the licensee's qualifications
17 or the effects or results of proposed treatment, including
18 functioning outside of one's professional competence or area
19 of specialization established by education, training, and
20 experience as recognized by the board.

21 "(10) Gross malpractice or repeated malpractice or
22 gross negligence in practice as a psychologist or
23 psychological technician.

24 "(11) Aiding or abetting practice as a psychologist
25 or psychological technician by any person not licensed by the
26 board.

1 "(12) Conviction of fraud in filing Medicare or
2 Medicaid claims or in filing claims to any third party payor
3 (a copy of the record of conviction, certified to by the clerk
4 of the court entering the conviction, shall be conclusive
5 evidence).

6 "(13) Exercising undue influence in such a manner as
7 to exploit the client, patient, student, or supervisee for
8 financial or other personal advantage to the practitioner or a
9 third party.

10 "(14) The suspension or revocation by another state
11 of a license to practice as a psychologist or psychological
12 technician for cause other than failure to renew the license
13 (a certified copy of the record of suspension or revocation of
14 the state making such a suspension or revocation shall be
15 conclusive evidence thereof).

16 "(15) Refusal to appear before the board after
17 having been ordered to do so in writing by the executive
18 office or chair of the board.

19 "(16) Making any fraudulent or untrue statement to
20 the board.

21 "(17) Failing to cooperate with or to respond
22 promptly, completely, and honestly to the board.

23 "~~(17)~~ (18) Violation of the code of ethics adopted in
24 the rules and regulations of the board.

1 "~~(18)~~(19) Upon the recommendation of the Ethics
2 Committee of the Alabama Psychological Association, or of its
3 successor organization, or the Ethics Committee of the
4 American Psychological Association.

5 "~~(19)~~(20) Inability to practice as a psychologist or
6 psychological technician with reasonable skill and safety to
7 patients or clients by reason of illness, inebriation, misuse
8 of drugs, narcotics, alcohol, chemicals, or any other
9 substance, or as a result of any mental or physical condition.

10 "~~(20)~~(21) Engaging in practice as a psychologist or
11 psychological technician before a license is issued.

12 "~~(21) Failure to engage in continuing education or~~
13 ~~failure to pay fees for registration of continuing education~~
14 ~~credits.~~

15 "(22) Practice of a level of psychology
16 inappropriate or beyond the scope of the particular license
17 held by the licensee.

18 "(23) Failure to comply with any of the respective
19 responsibilities of a supervisor or supervisee as provided in
20 this chapter.

21 "(b) When the issue is whether or not a psychologist
22 or psychological technician is physically or mentally capable
23 of practicing as a psychologist or psychological technician
24 with reasonable skill and safety to patients or clients, then,
25 upon a showing of probable cause to the board that the
26 psychologist or psychological technician is not capable of
27 practicing psychology with reasonable skill and safety to

1 patients, the board may petition a court of competent
2 jurisdiction to order the psychologist or psychological
3 technician in question to submit to a psychological
4 examination by a psychologist to determine psychological
5 status and/or a physical examination by a physician to
6 determine physical condition. The psychologist and/or
7 physician is to be designated by the court. The expense of the
8 examination shall be borne by the board. Where the
9 psychologist or psychological technician raises the issue of
10 mental or physical competence or appeals a decision regarding
11 his or her mental or physical competence, the psychologist or
12 psychological technician shall be permitted to obtain his or
13 her own evaluation at his or her own expense. If the
14 objectivity or adequacy of the examination is suspect, the
15 board may complete an examination by its designated
16 practitioners at its own expense. When mental or physical
17 capacity to practice is at issue, every psychologist or
18 psychological technician licensed to practice in the state
19 shall be deemed to have given consent to submit to a mental or
20 physical examination or to any combination of such
21 examinations and to waive all objections to the admissibility
22 of the examination, or to previously adjudicated evidence of
23 mental incompetence.

24 "(c) The In addition to any penalties referenced in
25 subsection (d), the board may assess the cost of any

1 investigation, legal service, legal proceeding, or
2 disciplinary action against any applicant or licensee found to
3 be in violation of this chapter.

4 "(d) In determining the amount of any penalty, which
5 may not exceed one thousand dollars (\$1,000) per violation or
6 a total of five thousand dollars (\$5,000), the board shall
7 consider the seriousness of the violation, including any
8 threat to the health, safety, or welfare of the public, the
9 unlawful gain or economic benefit gained from the violation,
10 the history of previous violations by the person, and the
11 efforts of the person to mitigate and comply with this
12 chapter.

13 "(e) Judicial review of an order entered by the
14 board under this section shall be conducted in accordance with
15 those provisions providing for the judicial review of
16 contested cases of the Alabama Administrative Procedure Act.

17 "(f) The board shall exercise its jurisdiction for
18 disciplinary oversight of licensees for any psychological
19 services, regardless of how or where those services are
20 rendered, even if those services are rendered in another
21 state, federal facility, or foreign country during the
22 licensure period. The board may not accept the voluntary
23 surrender of a license on the part of a licensee in an effort
24 to avoid possible disciplinary actions by the board. Inactive
25 status does not negate the jurisdiction of the board over the
26 actions of a license during any period of active licensure. If
27 a former licensee or a licensee on inactive status is found to

1 be in violation of a state law or administrative rule, a
2 public announcement of the decision of the board shall be
3 proffered in a manner to be determined by rule of the board.

4 ~~"(d)~~(g) The Board of Examiners in Psychology may
5 refuse to grant a ~~certificate~~ license, or may recommend
6 suspension of any license for a definite period not to exceed
7 three years. The board may, upon satisfactory proof that any
8 applicant or licentiate has been guilty of any of the above
9 offenses, refuse to grant a ~~certificate~~ license to the
10 applicant or may recommend revocation of a license of the
11 licentiate upon a vote of at least four members of the board.
12 After three years from the date of a revocation, an
13 application for reinstatement may be made to the board, and it
14 may, upon favorable action by four of its members, recommend
15 reinstatement.

16 "§34-26-47.

17 "(a) The board may not recommend suspension or
18 revocation of licensure or refuse to issue or to renew any
19 ~~certificate~~ license for any cause listed in Section 34-26-46
20 unless the person accused has been given at least ~~20~~ 30 days'
21 notice in writing of the charge against him or her and a
22 public hearing by the board. The written notice shall be
23 mailed to the person's last known address, but the
24 nonappearance of the person shall not prevent such a hearing.
25 Upon such a hearing the board may administer oath and procure

1 by its subpoenas the attendance of witness and the production
2 of relevant books and papers.

3 "(b) At least one member of the board shall be
4 present at all times during a hearing, deliberation, and
5 action thereon. A board member who has assisted with an
6 investigation of a complaint may not vote on the disciplinary
7 action to be taken relating to the complaint. A hearing
8 officer appointed by the Attorney General shall act as the
9 hearing officer for the purpose of ruling on motions,
10 evidence, and other like matters."

11 Section 2. All laws or parts of laws which conflict
12 with this act are repealed, specifically Section 34-26-45,
13 Code of Alabama 1975, providing for the waiver of examination
14 for persons licensed in other states.

15 Section 3. The Board of Examiners in Psychology
16 shall be subject to the Alabama Sunset Law, Title 41, Chapter
17 20, Code of Alabama 1975, as an enumerated agency as provided
18 in Section 41-20-3, and shall have a termination date of
19 October 1, 2016, and every four years thereafter, unless
20 continued pursuant to the Alabama Sunset Law.

21 Section 4. This act shall become effective on the
22 first day of the ninth month following its passage and
23 approval by the Governor, or its otherwise becoming law.

~~_____~~

 Speaker of the House of Representatives

Kay Ivey

 President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
 and was passed by the House 25-APR-13, as amended.

Jeff Woodard
 Clerk

Senate	<u>20-MAY-13</u>	Amended and Passed
House	<u>20-MAY-13</u>	Concurred in Sen- ate Amendment

APPROVED May 23, 2013
 TIME 5:38 p.m.
Robert Bentley
 GOVERNOR

Alabama Secretary Of State

Act Num....: 2013-386
 Bill Num....: H-544

Recv'd 05/24/13 12:44pmSLF

atterson
SPONSORS

I HEREBY CERTIFY THAT THE
RESOLUTION AS REQUIRED IN
SECTION C OF ACT NO. 81-889
WAS ADOPTED AND IS ATTACHED
TO THE BILL, H.B. 544

YEAS 96 NAYS 0

JEFF WOODARD, Clerk

I HEREBY CERTIFY THAT THE
NOTICE & PROOF IS ATTACHED
TO THE BILL, H.B. _____
AS REQUIRED IN THE GENERAL
ACTS OF ALABAMA, 1975 ACT NO.
919.

JEFF WOODARD, Clerk

CONFERENCE COMMITTEE

House Conferees _____

DATE: 4-30 20__

RD 1 RFD _____

This Bill was referred to the Standing
Committee of the Senate on _____

and was acted upon by such Committee in
session and is by order of the Committee
returned therefrom with a favorable report
w/amend(s) 1 w/sub _____ by a vote of

yeas 17 nays 0 abstain _____

this 17th day of May 2013

Chairperson

DATE: 5-9 20__

RF _____ RD 2 CAL _____

DATE: _____ 20__

RE-REFERRED ☐ RE-COMMITTED ☐
Committee _____

I hereby certify that the Resolution as
required in Section C of Act No. 81-889
was adopted and is attached to the Bill,
HB _____

YEAS _____ NAYS _____

PATRICK HARRIS,
Secretary

FURTHER SENATE ACTION (OVER)